

PATENT  
Attorney Docket No. NEW-001-2C US  
(7007853001)

REMARKS

The Assignee respectfully submits the following remarks and requests reconsideration of the application in light of the submitted remarks.

The Examiner rejected claims 28-41 under 35 U.S.C. 101 as claiming the same invention as that of claims 1-14 of U.S. Patent No. 6,409,602 (the '602 patent). The Examiner also rejected claims 1-41 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-27 of U.S. Patent No. 6,409,602. In addition, the Examiner rejected claims 42-44 and 51-54 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,586,937 (Menache). The Examiner also rejected claims 45-50 under 35 U.S.C. 103(a) as being unpatentable over Menashe in view of U.S. Patent No. (Itkis) and Windows operating system. The Applicants respectfully traverse these rejections.

Double-Patenting Rejections

a) Rejection under 35 U.S.C. 101

The Examiner rejected claims 28-41 as claiming the same invention as that of claims 1-14 of the '602 patent, by stating that "neither claim could be literally infringed without infringement of the other." The Assignee has amended claims 28-41, which claim different invention as that of claims 1-14 of the '602 patent. As amended, claims 28-41 may be infringed without infringement of claims 1-14 of the '602 patent and vice

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versa. The Assignee respectfully submits that the rejection under 35 U.S.C. 101 has been overcome and that claims 28-41 are in condition for allowance, which is earnestly solicited.

b) Rejection under the judicially created doctrine

The Examiner rejected claims 1-41 under the judicially created doctrine of double-patenting. The Assignee respectfully submits a Terminal Disclaimer in compliance with 37 CFR 1.321(c) as both the '602 patent and the present application are commonly owned. The Assignee respectfully submits that the rejection under the judicially created doctrine of double-patenting has been overcome and that claims 1-41 are in condition for allowance which is earnestly solicited.

Rejections under 35 U.S.C. 102 and 103

The Examiner also rejected claims 42-54 as either anticipated or rendered obvious by Menashe. The Assignee respectfully draws Examiner's attention to Column 5, lines 21-24 and Column 6, lines 6-12 of Menasche, which state that the terminal computers download and execute gaming programs. The rejected claims specifically state that "a computer gaming program [is] executed by the server/host computers, and not by the client/terminal computers." Menasche system does not anticipate or render obvious claims 42-54. The Assignee respectfully requests the Examiner to withdraw the rejections and allow the claims.

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CONCLUSION

Reconsideration and allowance of the claims is respectfully requested. The Examiner may call the Assignee's attorney at (650) 849-4400 to further advance prosecution of this case to issuance.

If the Commissioner determines that additional fees are due or that an excess fee has been paid, the Patent Office is authorized to debit or credit (respectively) Deposit Account No. 50-2518, reference no. 2024490-7007853001.

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Respectfully submitted,

By: 

Saina S. Shamilov

Registration No. 48,266

Bingham McCutchen LLP  
Three Embarcadero Center, Suite 1800  
San Francisco, California 94111  
Telephone: (650) 849-4400  
Telefax: (650) 849-4800